United Nations A/AC.109/2005/2

General Assembly

Distr.: General
9 February 2005

Original: English

Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Western Sahara

Working paper prepared by the Secretariat

Contents

		Paragraphs	Page
I.	Report and good offices of the Secretary-General	1–20	2
II.	Consideration by the Security Council	21–24	6
III.	Consideration by the General Assembly	25–31	7

05-23387 (E) 070305

I. Report and good offices of the Secretary-General

1. Pursuant to General Assembly resolution 58/109 of 9 December 2003, the Secretary-General submitted to the Assembly at its fifty-ninth session a report on the question of Western Sahara (A/59/134). The report covered the period from 1 July 2003 to 30 June 2004 and reviewed the activities carried out by the Secretary-General in the exercise of his good offices.

2. Also during the period under review, the Secretary-General submitted three reports to the Security Council on the situation concerning Western Sahara (S/2004/325 and Add.1, S/2004/827 and S/2005/49), pursuant to Council resolutions 1523 (2004) of 30 January 2004, 1541 (2004) of 29 April 2004 and 1570 (2004) of 28 October 2004.

3. In its resolution 1523 (2004), the Security Council decided to extend the mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO) until 30 April 2004 and requested the Secretary-General to provide a report on the situation before the end of the mandate.

4. Pursuant to Security Council resolution 1523 (2004), the Secretary-General submitted to the Council a report (S/2004/325 and Add.1), in which he informed the Council that his Personal Envoy had held two meetings with delegations from Morocco, on 2 April and 15 April 2004, and a meeting with a delegation from the Frente Popular para la Liberación de Saguia el-Hamra y del Río de Oro (Frente POLISARIO), on 31 March 2004. During the meeting on 15 April 2004, Morocco delivered its final response to the Peace Plan for Self-Determination of the People of Western Sahara (S/2003/565, annex II), as an enclosure to a letter dated 9 April 2004 from the Minister for Foreign Affairs and Cooperation of Morocco (S/2004/325 and Add.1, annex I).

5. In his report, the Secretary-General also stated that, by its resolution 1495 (2003), which had been adopted unanimously, the Council had expressed its support for the Peace Plan as an optimum political solution on the basis of agreement between the parties. The Council had also called upon the parties to work with the United Nations and with each other towards acceptance and implementation of the Peace Plan. However, while Morocco's final response to the Peace Plan had expressed a willingness to continue to work to achieve a political solution to the conflict over Western Sahara, it had also clearly stated that an "autonomy-based political solution can only be final", which had adverse implications for self-determination, as called for in resolution 1429 (2002).

6. In his report, the Secretary-General further informed the Security Council that, in February 2004, he had asked his Special Representative for Western Sahara, Alvaro de Soto, to head his mission of good offices in Cyprus, in his capacity as the Secretary-General's Special Adviser on Cyprus. In the meantime, the Force Commander of MINURSO, Major General Gyorgy Száraz (Hungary), had been acting as Officer-in-Charge of the Mission.

7. In concluding his report, the Secretary-General observed that it was clear from past actions by the Security Council and its debates on the issue that there was opposition to a non-consensual solution to the conflict over Western Sahara. Further, in his view and in that of his Personal Envoy, Morocco's final response to the Peace Plan would have required the parties involved to agree to negotiate a solution for

Western Sahara based on "autonomy within the framework of Moroccan sovereignty". The issue of sovereignty was, of course, the fundamental issue that had divided the parties all these years. The Secretary-General added that, given the history and those facts, in his view and in the view of his Personal Envoy, only two options remained for the Council to consider. The first option would have been to terminate MINURSO and return the issue of Western Sahara to the General Assembly, thereby recognizing and acknowledging that, after more than 13 years and the expenditure of more than $600 million, the United Nations was not going to resolve the problem of Western Sahara without requiring that one or both of the parties do something that they would not voluntarily agree to do. The second option would have been to try once again to induce the parties to work towards acceptance and implementation of the Peace Plan.

8. The Secretary-General concluded that it was his view and that of his Personal Envoy that the Peace Plan still constituted the best political solution to the conflict over Western Sahara which provided for self-determination, as required by paragraph 1 of Security Council resolution 1429 (2002). He had therefore hoped that the Council would reaffirm its recent unanimous support for the Peace Plan and would once again call upon the parties to work with the United Nations and each other towards acceptance and implementation of the Peace Plan.

9. On 29 April 2004, the Security Council adopted resolution 1541 (2004), in which it reaffirmed its support for the Peace Plan as an optimum political solution on the basis of agreement between the two parties; reaffirmed its strong support for the efforts of the Secretary-General and his Personal Envoy towards achieving a mutually acceptable political solution to the dispute over Western Sahara; called upon all the parties and the States of the region to cooperate fully with the Secretary-General and his Personal Envoy; decided to extend the mandate of MINURSO until 31 October 2004; and requested that the Secretary-General provide a report on the situation before the end of the present mandate, including an evaluation of the mission size necessary for MINURSO.

10. In a letter dated 11 June 2004, addressed to the President of the Security Council (S/2004/492), the Secretary-General referred to his letter of 17 March 1997 (S/1997/236), in which he had informed the Council of his decision to appoint James A. Baker III as his Personal Envoy for Western Sahara, to help him assess the situation and make recommendations in regard to all questions related to the impasse in the implementation of the Settlement Plan. During the seven years that Mr. Baker had served as his Personal Envoy, he had held 14 formal and numerous informal meetings with the parties, Morocco and the Frente POLISARIO, and the neighbouring countries Algeria and Mauritania, and had proposed a number of possible approaches to resolving the conflict. While progress had been made, the parties had not been able to reach an agreement. In that connection, Mr. Baker had informed the Secretary-General that he believed he had done all he could on the issue and therefore had offered his resignation as Personal Envoy. The Secretary-General informed the Council that it was with deep regret that he had accepted Mr. Baker's resignation.

11. In the same letter, the Secretary-General had further informed the Council that he had decided that Alvaro de Soto, in his capacity as the Special Representative of the Secretary-General for Western Sahara, would continue to work with the parties, and neighbouring countries, in pursuit of a just, lasting and mutually acceptable

political solution, which would provide for the self-determination of the people of Western Sahara in the context of arrangements consistent with the purposes and principles of the Charter of the United Nations.

12. On 20 October 2004, the Secretary-General submitted a report to the Security Council (S/2004/827), in which he informed the Council that his Special Representative had conducted a round of consultations in the region to ascertain the positions of the parties and neighbouring countries. In the course of his consultations, the Special Representative had ascertained that there had been no change in the position of Morocco with respect to the Peace Plan for Self-Determination of the People of Western Sahara. Morocco had continued to reject essential elements of the Plan, but had indicated its readiness to negotiate a mutually acceptable autonomy status that would allow the people of the Territory to administer their own affairs, while respecting the sovereignty and territorial integrity of Morocco. The Frente POLISARIO had maintained its support for the Peace Plan, as expressed in its letter of 9 July 2003, while Algeria's position had remained similarly unchanged.

13. With respect to other developments, the Secretary-General informed the Council that the first phase of the exchange of family visits programme between Western Saharan refugees living in the Tindouf area refugee camps in Algeria and their relatives in the Territory had been successfully implemented with the full cooperation of the parties, as well as Algeria as country of asylum. The telephone service linking the Tindouf area with the Territory had been extended during the reporting period, with more than 9,200 refugees benefiting from the service. With regard to the mail service, the Moroccan side had reiterated its concerns regarding the legal and administrative implications of the proposal under which the Office of the United Nations High Commissioner for Refugees (UNHCR) would establish a channel for collecting and distributing the mail in the Territory, but had stated that it would continue to reflect on the issue in order to reach suitable arrangements for the implementation of the service.

14. In accordance with Security Council resolution 1541 (2004), the Department of Peacekeeping Operations conducted a review of the military strength necessary for MINURSO to carry out its mandated tasks. The review identified two options. The first option was to maintain the status quo, 203 military observers. The second option involved a number of steps, including closing some sector headquarters and a team site. While the second option would result in the overall reduction of the military observer component by 37, it would still allow MINURSO to continue to monitor the ceasefire, report violations and maintain daily liaison with the parties, albeit at a reduced level.

15. Concluding his report, the Secretary-General reiterated that there was still no agreement between the parties on the Peace Plan for Self-Determination of the People of Western Sahara. He would continue to look for opportunities to advance the goal of enabling the people of Western Sahara to exercise their right to self-determination. On a positive note, however, the agreement of the parties for the resumption of the family visits was a welcome sign. He urged the parties to continue cooperating with his Special Representative, UNHCR and MINURSO for the smooth implementation of the confidence-building measure, as well as for their expansion to new activities. He appealed again to the Frente POLISARIO to release all Moroccan prisoners of war and appealed to both Morocco and the Frente

POLISARIO to continue to cooperate with the International Committee of the Red Cross (ICRC) in accounting for those still missing. He recommended that the Security Council consider extending the mandate of MINURSO until 30 April 2005, and expressed the hope that both the parties and the neighbouring countries would use that time to cooperate in good faith with his Special Representative to end the current impasse and to achieve progress towards a just, lasting and mutually acceptable political solution.

16. On 28 October 2004, the Security Council adopted resolution 1570 (2004), extending the mandate of MINURSO until 30 April 2005 and requesting the Secretary-General to submit two reports, one before the end of the mandate period, and an interim report, within three months of the adoption of the resolution, on the evolution of the situation and on the mission's size and concept of operation, with further detail on the options discussed in his report of 20 October 2004 (S/2004/827) on the possible reduction of MINURSO staff, including civilian and administrative personnel.

17. On 27 January 2005, the Secretary-General submitted to the Security Council the interim report (S/2005/49) it had requested by resolution 1570 (2004). In his report, the Secretary-General discussed the evolution of the situation and the mission's size and concept of operations and offered further details on the options discussed in his report to the Security Council of 20 October 2004 (S/2004/827) on the possible reduction of MINURSO staff.

18. As at the beginning of January 2005, the military component of MINURSO stood at 203 military observers, 7 administrative clerks and 20 medical personnel, against the authorized strength of 230. The Secretary-General reiterated the two options he had presented in his previous report (S/2004/827) with respect to MINURSO military strength, indicating that he remained convinced that any reduction in the size of the military component of MINURSO would have a negative impact on the effective implementation of the Mission mandate. Turning to the issue of the Moroccan prisoners of war, he pointed out that the Frente POLISARIO had announced the release of two seriously ill prisoners of war, who were subsequently repatriated to Morocco. Regarding the 410 Moroccan prisoners of war still held by the Frente POLISARIO, he appealed to the Frente POLISARIO to release all prisoners of war it continued to hold and appealed to both the Frente POLISARIO and Morocco to continue to cooperate with ICRC to account for those still missing owing to the conflict.

19. With respect to Western Saharan refugees, the Secretary-General stated that both parties and Algeria as the asylum country had made a positive evaluation of the March-August 2004 pilot phase of the confidence-building measures. The parties had expressed their agreement in principle to the draft plan of action for the implementation of the second phase of the confidence-building-measures programme. MINURSO and UNHCR had agreed to join efforts to implement the programme, which was expected to resume in March 2005.

20. Concluding his report, the Secretary-General regretted that the lack of agreement to overcome the deadlock between the parties on the Peace Plan for Self-Determination of the People of Western Sahara, as reflected in his last report, remained. He noted however that, notwithstanding actions of the parties that were at odds with the military agreements described in the report, the ceasefire that came into effect on 6 September 1991 continued to be respected by both sides and

monitored by MINURSO within the limits of its capabilities. The Secretary-General cautioned, however, that various incidents in the MINURSO area of operations, while still circumscribed and isolated, should not be underestimated. He also expressed concern that continuation of the political deadlock, if not reversed, might lead to a deterioration of the situation in Western Sahara. He added that, while MINURSO had undertaken a comprehensive review of the structure of the administrative and small civilian component of the Mission, with a view to reflecting more accurately and rationally the actual nature and level of activities of those components, the parties had reiterated their strong desire that the Mission's size be increased and that its patrolling and response capacities be reinforced. In view of the recent increase of overall activities of the Mission as a result of the confidence-building-measures programme, which the Council had encouraged, he urged donor countries to provide the necessary funding to UNHCR to enable it to continue the programme.

II. Consideration by the Security Council

21. The Security Council considered the reports of the Secretary-General contained in documents S/2004/325 and Add.1 and S/2004/827. As of the date of closing of the present report, the Council had not yet considered the interim report contained in document S/2005/49.

22. By resolution 1523 (2004) of 30 January 2004, the Security Council decided to extend the mandate of MINURSO until 30 April 2004, and requested the Secretary-General to provide a report on the situation before the end of the mandate.

23. By resolution 1541 (2004) of 29 April 2004, the Security Council reaffirmed its support for the Peace Plan for Self-Determination of the People of Western Sahara as an optimum political solution on the basis of agreement between the parties. The Council also reaffirmed its strong support for the efforts of the Secretary-General and his Personal Envoy in order to achieve a mutually acceptable political solution to the dispute over Western Sahara, and called upon all the parties and the States of the region to cooperate fully with the Secretary-General and his Personal Envoy. The Council decided to extend the mandate of MINURSO until 31 October 2004, and requested the Secretary-General to provide a report on the situation before the end of the present mandate and to include in that report an evaluation of the mission size necessary for MINURSO to carry out its mandated tasks, with a view towards it possible reduction.

24. By resolution 1570 (2004) of 28 October 2004, the Security Council decided to extend the mandate of MINURSO until 30 April 2005, and requested the Secretary-General to provide a report on the situation before the end of the mandate period and an interim report, within three months from adoption of the resolution, on the evolution of the situation and on the Mission's size and concept of operation, with further detail on the options discussed in the Secretary-General's report of 20 October 2004 (S/2004/827) on the possible reduction of MINURSO staff. The Council called upon Member States to consider voluntary contributions to fund confidence-building measures that allow for increased person-to-person contact, in particular the exchange of family visits.

III. Consideration by the General Assembly

25. During the general debate of the fifty-ninth session of the General Assembly, a number of representatives referred to the question of Western Sahara in their statements. During the debate in the Special Political and Decolonization Committee (Fourth Committee), held from 6 to 12 October 2004, a number of Member States also made reference to the question of Western Sahara.

26. At its 4th meeting, on 6 October 2004, the Fourth Committee heard the following petitioners: Ahmed Boukhari, on behalf of Frente POLISARIO; Karin Finkler on behalf of Joseph R. Pitts, United States Congressman; Melody Divine, Foreign Affairs Adviser, Office of Congressman Trent Franks, United States Congress; Suzanne Scholte, President, Defense Forum Foundation; Pedro Pinto Leite, Secretary-General, International Platform of Jurists for East Timor; Janet Lenz, Director, Saharawi Children's Programme-USA; Reverend Louis Parascand, Faith Community Church; and Christina Del Valle, Plataforma de Mujeres Artistas contra la Violencia de Género.

27. At its 5th meeting, on 7 October 2004, the Committee heard statements by Antonio López Ortiz, Federación Estatal de Instituciones Solidarias con el Pueblo Saharaui; Felipe Briones Vives, International Association of Jurists for Western Sahara; Txomin Aurrekoetxea, Member, Basque Parliament (Spain); Francisco José Alonso Rodriguez, Human Rights League; Vanessa Ramos, American Association of Jurists; Francisco Javier Morillas Gómez, Representante de la Coordinadora Estatal de Asociación de Amigos del Pueblo Saharaui; Fernando Iñiguez, Asociación Periodistas Especializados en Música, Ocio y Cultura; Greet De Causmaecker, Belgian Committee of Support for the Saharaui People; Julien Dedenis, Association des Amis de la République Arabe Sahraouie Démocratique; Charles Scheiner on behalf of Liesbeth den Haan, Chairwoman, Netherlands Foundation for Self-Determination in Western Sahara; Tarik Belkhodja, Comité Méditerranée; and David J. Lippiat, We International.

28. At its 8th meeting, on 12 October 2004, the Committee had before it draft resolution A/C.4/59/L.4, introduced by the representative of Nigeria on behalf of Algeria, Angola, Antigua and Barbuda, the Bahamas, Cuba, Ethiopia, Fiji, Grenada, Jamaica, Kenya, Lesotho, Mauritius, Mozambique, Namibia, Nigeria, South Africa, Timor-Leste, the United Republic of Tanzania, Zambia and Zimbabwe. Subsequently, Barbados, Belize, Botswana, Burundi, Dominica, the Lao People's Democratic Republic, Liberia, Malawi, the Federated States of Micronesia, Nauru, the Niger, Palau, Papua New Guinea, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sierra Leone, Solomon Islands, Suriname, Tonga, Trinidad and Tobago, Uganda and Venezuela joined in sponsoring the draft resolution. The representative of the Netherlands made a statement on behalf of the European Union. Statements were also made by the representatives of Algeria, Canada, Senegal, the Russian Federation, Morocco, Nigeria and the Lao People's Democratic Republic. The Committee decided to postpone taking action on draft resolution A/C.4/59/L.4 for 48 hours.

29. At the 10th meeting, on 14 October, the Committee was informed that the Bahamas, Barbados, the Lao People's Democratic Republic, the Niger and Saint Kitts and Nevis had withdrawn from the list of sponsors. Statements were made by the representatives of the Niger, the Bahamas, Morocco, Algeria, Senegal, Egypt

and Gabon. The representative of the Office of Legal Affairs made a statement. The Chairman also made a statement. The Committee decided to defer action on the draft proposals to Monday, 18 October 2004.

30. At its 11th meeting, on 18 October 2004, the Committee adopted draft resolution A/C.4/59/L.4 by a recorded vote of 52 to none, with 89 abstentions. Statements in explanation of vote after the vote were made by the representatives of Cameroon, the United States, Brazil, Myanmar, the Netherlands on behalf of the European Union, Indonesia, Japan, Egypt, El Salvador, Guatemala, Chile, the Russian Federation, Canada, Ukraine and Pakistan. Statements were also made by the representatives of Algeria and Morocco.

31. On 10 December 2004, the General Assembly adopted draft resolution I, entitled "Question of Western Sahara", recommended by the Fourth Committee (A/59/478, para. 38) by a recorded vote of 50 to none, with 100 abstentions, as resolution 59/131. By the terms of the resolution, the Assembly, inter alia, underlined Security Council resolution 1495 (2003), in which the Council expressed its support for the Peace Plan for Self-Determination of the People of Western Sahara as an optimum political solution on the basis of agreement between the two parties and continued to support strongly the efforts of the Secretary-General in order to achieve a mutually acceptable political solution to the dispute over Western Sahara. The General Assembly requested the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples to continue to consider the situation in Western Sahara and to report thereon to the General Assembly at its sixtieth session. The Assembly invited the Secretary-General to submit a report, also at its sixtieth session, on the implementation of the resolution.